

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
NORTHERN DIVISION**

TENNESSEE ENVIRONMENTAL  
COUNCIL, TENNESSEE SCENIC RIVERS  
ASSOCIATION, SIERRA CLUB, and  
CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

TENNESSEE VALLEY AUTHORITY,

Defendant.

Case No. 3:13-cv-00374

Chief Judge Thomas A. Varlan  
Magistrate Judge H. Bruce Guyton

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**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON THE  
ADMINISTRATIVE RECORD AND REQUEST FOR HEARING**

Plaintiffs Tennessee Environmental Council, Tennessee Scenic Rivers Association, Sierra Club, and Center for Biological Diversity respectfully move the Court to enter judgment on the administrative record in favor of Plaintiffs pursuant to Rule 56 of the Federal Rules of Civil Procedure. As explained in Plaintiffs' memorandum supporting this motion, the administrative record demonstrates that Defendant Tennessee Valley Authority ("TVA") violated the National Environmental Policy Act ("NEPA") and the Administrative Procedure Act by failing to take a hard look at the environmental consequences of its decision to modify and continue operating the Gallatin Fossil Plant. In particular, TVA illegally (1) predetermined the outcome of the NEPA process; (2) prematurely committed substantial resources to the project; (3) compared the environmental impacts of the project to an improper "no action" baseline; (4) failed to compare the project to reasonable alternatives; (5) refused to prepare an Environmental Impact Statement

despite significant impacts of the project; and (6) refused to evaluate an essential project component. Judgment in favor of Plaintiffs is therefore appropriate.

This is an administrative record review case which the parties believe should be resolved based on the record and applicable law, without the necessity of a full evidentiary hearing. Plaintiffs believe that oral argument will help the Court achieve a more thorough understanding of the background of the case and the issues presented by the parties, and it would allow the Court an opportunity to ask any factual or legal questions it may have. Accordingly, Plaintiffs respectfully request a hearing on this motion to facilitate the Court's resolution of this case, pursuant to Local Rule 7.2.

Respectfully submitted this 15<sup>th</sup> day of October, 2013.

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## **CERTIFICATE OF SERVICE**

I certify that on the 15<sup>th</sup> day of October, 2013, the foregoing document was filed electronically through the Court's ECF system on the date shown in the document's ECF footer. Notice of this filing will be sent by operation of the Court's ECF system to all parties as indicated on the electronic filing receipt. Parties may access this filing through the Court's ECF system.

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